

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 03-3097

Homer Buckles,

Appellant,

v.

Bill Hedrick, Warden, U.S. Medical
Center for Federal Prisoners,

Appellee.

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Appeal from the United States
District Court for the
Western District of Missouri.
[Unpublished]

Submitted: October 3, 2003

Filed: October 7, 2003

Before MURPHY, BOWMAN, and MELLOY, Circuit Judges.

PER CURIAM

Federal inmate Homer Buckles, confined in the United States Medical Center for Federal Prisoners at Springfield, Missouri, appeals the district court's dismissal without prejudice of his 28 U.S.C. § 2241 petition as moot. We grant Buckles leave to proceed in forma pauperis on appeal. We conclude the case is not moot because the record does not foreclose all reasonable expectations that the alleged violation could recur during Buckles's incarceration. See County of Los Angeles v. Davis, 440 U.S. 625, 631 (1979); St. Louis Fire Fighters Ass'n Int'l Ass'n of Fire Fighters Local

73 v. City of St. Louis, Mo., 96 F.3d 323, 329 (8th Cir. 1996). Nonetheless, Buckles has not rebutted respondent's evidence that Buckles failed to exhaust administrative remedies. See 28 C.F.R. § 542 (2002); United States v. Chappel, 208 F.3d 1069, 1069-70 (8th Cir. 2000) (per curiam).

Accordingly, we affirm the district court's dismissal without prejudice, but modify it to reflect that the dismissal is for Buckles's failure to exhaust administrative remedies. See 8th Cir. R. 47A(a).
